

USIB-D-9.1/2
11 September 1961

UNITED STATES INTELLIGENCE BOARD

MEMORANDUM FOR THE UNITED STATES INTELLIGENCE BOARD

SUBJECT : Proposed Amendments to EO 10501, "Safe-guarding Official Information in the Interests of the Defense of the United States, Submitted for Comments by Bureau of the Budget

REFERENCES : USIB-D-9.1/1, 11 August 1961
USIB-M-166, 1 August 1961, item 10

1. Attached is a communication from the Chairman, Security Committee, forwarding a copy of a letter to Mr. Dulles from the General Counsel, Bureau of the Budget, together with copies of a proposed amendment of Executive Order No. 10501 and a summary of ICIS-proposed revisions to that order. As you will note, the Security Committee has prepared an attached draft reply to the Director, Bureau of the Budget.

2. Because of the request that any views on this matter be received by the Bureau of the Budget not later than 18 September, this question will be placed on the agenda of the 14 September USIB meeting, for discussion and action on the draft letter to the Director, Bureau of the Budget.



Executive Secretary

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Attachment

Distribution

Regular "D" plus 30 copies to Secretary, Security Committee

IBSEC-P-3/1

11 September 1961

UNITED STATES INTELLIGENCE BOARD
SECURITY COMMITTEE

MEMORANDUM FOR: United States Intelligence Board

SUBJECT : Proposed Amendments to EO 10501,
"Safeguarding Official Information in
the Interests of the Defense of the
United States," Submitted for Comment
by Bureau of the Budget

1. There is attached a copy of a letter from the General Counsel, Bureau of the Budget, to the Chairman, USIB, dated August 31 (Attachment 1), requesting comments to proposed amendments to Executive Order 10501. The amendments proposed are the same as those revisions contained in the ICIS draft report which were forwarded to the Special Assistant to the President.

2. It is to be noted that in the reply by USIB to the Chairman, ICIS, dated 4 August 1961, the following paragraph was proposed for inclusion in the Executive Order:

"Nothing in this order shall supersede any authorization or requirement of the National Security Council with respect to the protection to be given to communications intelligence and cryptographic information and their related activities."

The substance of this proposal is contained in the attached proposed amendments of the Executive Order as follows:

Section 13.

"(b) Nothing in this order shall prohibit any special requirements that the originating

agency may impose as to communications intelligence, cryptography and their related activities."

3. There is also attached for approval a proposed draft reply from the Chairman, USIB, to the Director, Bureau of the Budget (Attachment 2). In this reply, the Security Committee has taken the same position as that taken by the USIB in its reply to Chairman, ICIS. At that time, the USIB considered that comments on the proposed revisions were a matter of responsibility of the individual departments and agencies. It is felt that this same position should be taken in replying to the Bureau of the Budget.



R. L. Bannerman
Chairman

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Attachments

ATTACHMENT 1

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EXECUTIVE OFFICE OF THE PRESIDENT
BUREAU OF THE BUDGET
WASHINGTON 25, D. C.

August 31, 1961

Honorable Allen W. Dulles
Chairman, United States Intelligence Board
2430 E Street, N. W.
Washington 25, D. C.

Dear Mr. Chairman:

The Director of the Bureau of the Budget has received from the Special Assistant to the President for National Security Affairs a report and a series of recommendations by the Interdepartmental Committee on Internal Security (ICIS) with respect to the handling of classified information and materials.

Certain of the recommendations contained in the ICIS report contemplate amendments to Executive Order No. 10501, "Safeguarding Official Information in the Interests of the Defense of the United States." This Bureau has prepared a proposed Executive order which incorporates the amendments proposed by ICIS.

There are enclosed copies of --

- 1 - the proposed Executive order referred to above, and
- 2 - a summary, prepared by ICIS, of the revisions which it recommends and which the order is designed to put into effect.

We understand that the ICIS recommendations are based upon consideration of a questionnaire circulated by ICIS on June 17, 1960, to 47 agencies and comments by 12 major agencies upon a draft of April 18, 1961, of the report referred to above.

The Director of the Bureau of the Budget would appreciate your views with respect to the proposed order. Since the staffs of all agencies

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concerned have previously had occasion to consider the subject matter of the proposed order in connection with their replies to the ICIS questionnaire, it is requested that your views be received here not later than September 18th.

Sincerely yours,

/s/
Arthur B. Focke
General Counsel

Enclosures

Revisions Proposed by ICIS in Executive Order 10501

The enclosed report proposes changes in Sections 4, 5, 6, 8 and 13 of Executive Order 10501 and the addition of a new Section 19. While this statement does not cover in detail all of the changes proposed in the annexes to the report, it includes the substantive ones which we feel are deserving of particular attention.

Section 4 - Declassification, Downgrading or Upgrading

Section 4 of the Order requires the designation of persons to be responsible for the continuing review of classified material and the establishment of formal procedures to provide specific means for prompt review of classified material and its declassification or downgrading.

Our studies show that the declassification and downgrading provisions of Section 4 have not been satisfactorily implemented, due to difficulties arising because of the tremendous volume of classified material on hand. Paper-by-paper review of all classified material, most of which is substantially inactive, would create a costly and time-consuming administrative burden plus the additional burden placed on the relatively limited number of employees competent to make the downgrading or declassification judgment - employees otherwise fully engaged in current substantive operations. Therefore, the ICIS recommends that Section 4 be amended, as set forth in Annex D, by adding a requirement that at the time documents are classified, they be categorized into one of four groups specifically indicating those excluded from the program, those requiring classification for an indefinite period of time, those to be automatically downgraded at 12 year intervals but not automatically declassified, and those automatically downgraded at three year intervals and automatically declassified 12 years after date of issuance. In this proposal for a revision of Section 4, as discussed above, to provide for automatic downgrading and declassification, Department of Defense views were generally followed for two reasons: Defense is the originator of more than 90% of classified material, and Defense initiated such a program on May 1, 1961 which is now in operation.

Section 5. Marking of Classified Material

A new paragraph (see Annex D) is proposed for Section 5 (which specifies the markings used on classified material), requiring that each classified document shall be stamped to indicate the downgrading-declassification schedule to be followed in accordance with the categories described above relative to Section 4.

Section 6 - Custody and Safekeeping

Section 6 of the Order contains standards as to the means, physical or mechanical, of classifying and declassifying material. As reflected in Annex B, the principal changes proposed in subparagraphs (a)

and (b) of Section 6 are insertion of the words "As a minimum" and deletion of the term "damage by fire." The changes would encourage a greater degree of protection than now called for by the Order and should, without a loss of security, substantially reduce the cost of the containers since they would no longer have to be of fire resistant construction. Destruction by burning per se would not result in a compromise of classified information.

A new subparagraph 6 (c) is proposed, which provides that when new security storage equipment is procured, it be of the type approved by the General Services Administration, to the maximum extent practicable.

Section 8 - Transmission

Subparagraphs (c) and (d) of Section 8 of E. O. 10501, as amended, specify the means to be used in transmitting Secret and Confidential material, both within and outside the continental limits of the United States, including use of "U. S. Post Office registered mail through Army, Navy, or Air Force postal facilities, provided that the material does not pass through a foreign postal system." It is recommended that subparagraphs (c) and (d) of Section 8 be revised, as set forth in Annex F (1) to replace the ambiguous term "continental limits of the United States" with more precise terminology; (2) to provide for the use of registered mail for the transmission of Secret material by the United States Post Office, utilizing either military or U. S. Civil Postal facilities; (this addition is required because military postal facilities in many overseas locations are being replaced by U. S. Civil Postal facilities); and (3) to require that registered official mail no longer be transported on foreign carriers but shall be dispatched only on aircraft or vessels of United States registry so that the registered mail will not pass out of U. S. Government control.

Section 13 - "Restricted Data" as Defined in the Atomic Energy Act

An addition is proposed to Section 13 (see Annex G) to provide for special handling of communications intelligence, cryptography and their related activities, due to the particular problems associated with these matters.

New Section 19 - Unauthorized Disclosure by Government Employees

The ICIS proposes the adoption of a new provision as set forth in Annex C, to require prompt and stringent administrative action against any government employee at any level of employment determined to have been knowingly responsible for release, disclosure, or other compromise of classified defense information, and where prosecutive action is possible referral of the case to the Department of Justice.

EXECUTIVE ORDER

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AMENDMENT OF EXECUTIVE ORDER NO. 10501, RELATING TO
SAFEGUARDING OFFICIAL INFORMATION IN THE INTERESTS
OF THE DEFENSE OF THE UNITED STATES

By virtue of the authority vested in me by the Constitution and statutes of the United States, and deeming such action necessary in the best interest of the national security, it is ordered that Executive Order No. 10501 of November 5, 1953, as amended, be, and it is hereby, amended as follows:

1. Section 4 is amended--

(i) By substituting for the preamble thereof the following:

"When material no longer requires its present level of protection in the defense interest, it shall be downgraded or declassified in order to preserve the effectiveness and integrity of the classification system and to eliminate accumulation of unnecessary classified material. Heads of departments or agencies originating classified material shall designate persons to be responsible for continuing review of such classified material on a document by document, category, project, program, or other systematic basis, for the purpose of declassifying or downgrading whenever national defense considerations permit, and for receiving requests for such review from all sources. However, Restricted Data and Formerly Restricted Data shall be handled only in accordance with subparagraph 4 (a) (1) below and section 13 of this order. The following special rules shall be observed with respect to changes of classification of defense material:"

(ii) By substituting for subsections (a), (e), (g), and (h) the following:

"(a) Automatic Changes. In order to insure uniform procedures for automatic changes heads of departments and agencies having authority for original classification of information, as set forth in section 2, shall categorize such information into the following groups:

"(1) Group 1 Documents. Those documents originated by foreign Governments or international organizations and over which the United States Government has no jurisdiction, documents provided for by other statutes such as the Atomic Energy Act, and documents requiring special

handling such as intelligence, counter intelligence, communications intelligence, and cryptography. These are completely excluded from automatic downgrading or declassification.

"(2) Group 2 Documents. Those documents containing such extremely sensitive information which the head of the agency or his designees exempt, on an individual basis, from automatic downgrading and declassification.

"(3) Group 3 Documents. Those documents which contain certain types of information which warrant some degree of classification for an indefinite period. These documents will be automatically downgraded at 12-year intervals, but are not automatically declassified.

"(4) Group 4 Documents. Those documents which do not qualify for, or are not assigned to, one of the first three groups. These documents will be automatically downgraded at three-year intervals and automatically declassified twelve years after date of issuance.

"To the fullest extent practicable, the classifying authority shall indicate on the material at the time of original classification if it can be downgraded or declassified at an earlier date, or if it can be downgraded or declassified after a specified event, or upon the removal of classified attachments or enclosures. The heads, or their designees, of departments and agencies in possession of defense material classified pursuant to this order, but not bearing markings for automatic downgrading or declassification, are hereby authorized to mark or designate for automatic downgrading or declassification such material in accordance with the rules or regulations established by the department or agency that originally classified such material."

"(e) Information Transmitted by Electrical Means. The downgrading or declassification of classified information transmitted by electrical means shall be accomplished in accordance with the procedures described above unless specifically prohibited by the originating department or agency. Unclassified information which is transmitted in encrypted form shall be safeguarded and handled in accordance with the regulations of the originating department or agency."

"(g) Upgrading. If the recipient of unclassified material believes that it should be classified, or if the recipient of classified material believes that its classification is not sufficiently protective, it shall be safeguarded in accordance with the classification deemed appropriate and a request made to the reviewing official, who may classify the material or upgrade the classification after obtaining the comment of the appropriate classifying authority. The date of this

action shall constitute a new date or origin insofar as the downgrading or declassification schedule (paragraph (a) above) is concerned."

"(h) Departments and Agencies Which Do Not Have Authority for Original Classification. The provisions of this section relating to the declassification of defense material shall apply to departments or agencies which do not, under the terms of this order, have authority for original classification of material, but which have formerly classified material pursuant to Executive Order No. 10290 of September 24, 1941."

(iii) By adding at the end thereof a new subsection (i) as follows:

"(i) Notification of Change in Classification. In all cases where action is taken by the reviewing official to change classification or declassify earlier than called for by the automatic downgrading-declassification stamp the reviewing official shall promptly notify all addressees to whom the material was originally transmitted. Recipients of original material, upon receipt of notification of change in classification shall notify addresses to whom they have transmitted extracted classified material."

2. Section 5 is amended --

(i) By adding a new subsection (a) thereto, as follows:

"(a) Downgrading-Declassification Markings. At the time of origination, each classified document shall be stamped to indicate the downgrading-declassification schedule to be followed in accordance with section 4, paragraph (a)."

(ii) By relettering the present subsections (a) through (i) as (b) through (j), respectively.

3. Section 6 is amended --

(i) By substituting for subsections (a), (b), and (c) thereof the following:

"(a) Storage of Top Secret Material. As a minimum, Top Secret defense material will be stored in a safe or safe-type steel container having a three position dial-type combination lock, and being of such weight, size, construction or installation as to minimize the possibility of unauthorized access to or the physical theft of such material. The head of a department or agency may approve other storage facilities which offer equal protection, such as an alarmed area, a vault, a vault-type room, or an area under continuous surveillance."

"(b) Storage of Secret and Confidential Material. As a minimum these categories of defense material may be stored in a manner authorized for Top Secret material, or in metal file cabinets equipped with steel lockbar and a changeable three combination dial type padlock or in other storage facilities which afford equal protection and which are authorized by the head of the department or agency.

"(c) Storage or Protection Equipment. When new security equipment is procured, it should, to the maximum extent practicable, be of the type designated as security filing cabinets on the Federal Supply Schedule of the General Services Administration."

(ii) By relettering the present subsections (c) through (g) as (d) through (h).

4. Subsections (c) and (d) of section 8 are amended to read as follows:

"(c) Transmitting Secret Material. Secret material shall be transmitted within and between the forty-eight contiguous states and the District of Columbia by one of the means established for Top Secret material, by authorized courier, by United States registered mail, or by the use of protective services provided by commercial carriers, air or surface, under such conditions as may be prescribed by the head of the department or a agency concerned. Secret material may be transmitted outside of the forty-eight contiguous states and the District of Columbia by one of the means established for Top Secret material, by commanders or masters of vessels of United States registry, or by the United States registered mail through Army, Navy Air Force or United States civil postal facilities, provided that the material does not at any time pass out of United States Government control and does not pass through a foreign postal system. For the purposes of this section registered mail in the custody of a transporting agent of the United States Post Office is considered within United States Government control unless the transporting agent is foreign controlled or operated. Secret material may, however, be transmitted between United States Government and/or Canadian Government installations in the forty-eight contiguous states, the District of Columbia, Alaska, and Canada by United States and Canadian registered mail with registered mail receipt. Secret material may also be transmitted over communications circuits in accordance with regulations promulgated for such purpose by the Secretary of Defense.

"(d) Transmitting Confidential Material. Confidential material shall be transmitted within the forty-eight contiguous states and the District of Columbia by one of the means established for higher classifications, or by certified or first class mail. Outside the forty-eight contiguous states and the District of Columbia, Confidential material shall be transmitted in the same manner as has been authorized for higher classifications."

5. Section 13 is amended to read as follows:

"Sec. 13. 'Restricted Data,' 'Formerly Restricted Data,' Communications Intelligence and Cryptography. (a) Nothing in this order shall supersede any requirements made by or under the Atomic Energy Act of August 1, 1946, as amended. 'Restricted Data,' and 'Formerly Restricted Data,' shall be handled protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1946, as amended, and the regulations of the Atomic Energy Commission.

"(b) Nothing in this order shall prohibit any special requirements that the originating agency may impose as to communications intelligence, cryptography and their related activities."

6. A new section 19 is added, as follows:

"Sec. 19. Unauthorized Disclosure by Government Employee. The head of each department and agency is directed to take prompt and stringent administrative action against any Government officer or employee, at any level of employment, determined to have been knowingly responsible for any release or disclosure of classified defense information except in the manner authorized by this order and, where prosecutive action is possible, to refer promptly to the Department of Justice any such case."

7. The present sections 19 and 20 are renumbered as sections 20 and 21, respectively.

THE WHITE HOUSE

, 1961

ATTACHMENT 2

DRAFT

8 September 1961

Honorable David E. Bell
Director
Bureau of the Budget
Washington 25, D. C.

Dear Mr. Bell:

As requested in a letter to me from the General Counsel, Bureau of the Budget, dated 31 August 1961, the United States Intelligence Board has considered the proposed amendments to Executive Order 10501 "Safeguarding Official Information in the Interests of the Defense of the United States."

The United States Intelligence Board has noted that the proposed revisions have been submitted by the Bureau of the Budget to the member departments and agencies with a request for comments. As previously indicated in my letter to Mr. John F. Doherty, Chairman, Interdepartmental Committee on Internal Security, dated 4 August, which was forwarded to you by Mr. Doherty, the USIB feels that comments on the proposed revisions are a matter of responsibility of the individual departments and agencies. Therefore, the USIB has no additional comments to offer the Bureau of the Budget with respect to the proposed order.

Sincerely yours,

Allen W. Dulles
Chairman